IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 4622 of 2007

Date of Decision: 14.12.2007

Satpal Singh alias Satnam Singh

.....Petitioner

Vs.

Harbans Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr.R.K.Battas, Advocate
for the petitioner.

Mr.R.S. Bajaj, Advocate
for respondents No. 1 and 2.

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Rajesh Bindal, J.

The plaintiff has filed the present petition in this Court challenging the order passed by the learned Additional District Judge, Jalandhar whereby the order passed by Civil Judge (Junior Division), Nakodar, dismissing the application filed under Order XXXIX Rules 1 and 2 C.P.C. for grant of temporary injunction, is affirmed.

Learned counsel for the petitioner contended that the present petitioner is one of the sons of Kartar Kaur, first wife of Malkiat Singh whereas the respondent No.1 is son of Joginder Kaur, the second wife of Malkiat Singh. It is submitted that during his life time, Malkiat Singh had given land measuring 9 kanals 13 marlas to the petitioner-plaintiff on which

he has raised his house. During the pendency of the present petition, his possession thereon need to be protected. Whereas respondent-defendant claims that the petitioner does not have any case as the property in dispute has been given to him by his father Malkiat Singh by executing a Will. It was further alleged that brothers of the present petitioner had challenged the Will in favour of the respondent/defendant in another suit filed prior to the filing of the present suit and when no interim order was passed in their favour in that suit, the present suit was filed which is nothing else but abuse of process of law. It was further pleaded that Kartar Kaur, mother of the petitioner, is in fact, wife of Saudagar Singh. This was established in the proceedings initiated by Kartar Kaur against Malkiat Singh for maintenance where she could not deny the fact that she was married to Saudagar Singh and accordingly the petitioner was not entitled to any share in the property of Malkiat Singh having no relation with him. He further submitted that the alleged house, the owner and possession of which is sought to be claimed by the petitioner, was constructed by the father of respondent No.1 and in fact, he is in possession thereof. However, he did not deny that a constructed house is existing on part of the property in dispute.

After having heard learned counsel for the parties without opining on any of the contentions raised by both the parties least the same may prejudice their case, I am of the opinion that it would be in the interest of justice in case during the pendency of the suit, the house in dispute is not demolished and further as both the parties are raising their respective claims regarding possession of the house as well as the land abutting the same, of which no final opinion can be expressed at this stage in the absence of any evidence, it is directed that the status quo regarding possession over

the house as well as the land abutting the same i.e. 9 kanals 13 marlas in total shall be maintained by the parties.

The petition is disposed of accordingly.

(RAJESH BINDAL)
JUDGE

December 14, 2007
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